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SENATE BILL 297

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Mark Boitano

AN ACT

RELATING TO DOMESTIC AFFAIRS; LIMITING RELIANCE ON
INCOMPATIBILITY AS GROUNDS FOR DISSOLUTION OF A MARRIAGE;
REQUIRING COUNSELING PRIOR TO DISSOLUTION OF CERTAIN MARRIAGES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 40-4-1 NMSA 1978 (being Laws 1973,
Chapter 319, Section 1) is amended to read:

"40-4-1. DISSOLUTION OF MARRIAGE--GROUNDS--LIMITATIONS--
COUNSELING REQUIRED.--

A. On the petition of either party to a marriage, a
district court may decree a dissolution of marriage on any of
the following grounds:

~~[A.]~~ (1) incompatibility, as provided in
Subsection B of this section;

~~[B.]~~ (2) cruel and inhuman treatment;

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1 ~~[G.]~~ (3) adultery; or

2 ~~[D.]~~ (4) abandonment.

3 B. Unless both parties agree that incompatibility
4 exists or the district court finds that domestic abuse, as
5 provided in the Family Violence Protection Act, has occurred
6 and has entered an order of protection pursuant to the
7 provisions of that act, a district court shall not decree a
8 dissolution of marriage on the grounds of incompatibility if:

9 (1) the wife is pregnant; or

10 (2) there is a minor child in the custody of
11 one or both of the parties.

12 C. Prior to entering a dissolution of marriage
13 decree in an action for divorce in which a minor child is in
14 the custody of one or both of the parties, the court shall
15 require that the parties attend no less than six hours of
16 counseling or relationship training or education. The
17 counseling or relationship training or education shall be in no
18 less than three separate sessions and shall be conducted by one
19 or more of the following:

20 (1) a licensed marriage and family therapist;

21 (2) a licensed psychiatrist or a licensed
22 psychologist;

23 (3) a licensed professional clinical mental
24 health counselor;

25 (4) a licensed independent social worker;

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(5) an official representative of a religious institution or the representative's designee; or

(6) a marriage educator.

D. The costs for the counseling provided in Subsection C of this section shall be paid by the parties and may be allocated between the parties by the court."

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